

Draft DEQ Guidance for ODA Biennial Review Survey with Recommended Responses

This guidance should be used by basin coordinators and program staff when participating in ODA's biennial reviews.

According to the MOA between ODA and DEQ, DEQ's role in the biennial process is as follows. Unlike TMDL Implementation plans submitted by other DMAs, DEQ does not "approve" AgWQM Area Plans.

- DEQ will review available data for water quality trends and whether waterbodies are achieving water quality standards and meeting TMDL agricultural load allocations.
- DEQ will review the area plan and working with ODA will recommend any changes or additions necessary to achieve water quality standards and meet TMDL agricultural load allocations.
- DEQ will evaluate and provide comment to ODA on the suitability of landscape conditions to achieve TMDL agricultural load allocations.

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Biennial Review Process (See sample biennial review schedule)

ODA is going through a number of changes. They are beginning to use "chapter format" for area plans, and adding more "measurable outcomes" and "timelines" to the plans. Due to these changes and vacant positions that are being filled, ODA has not been able to meet the schedule ODA and DEQ agreed on. ODA is trying to provide at least 1 month for DEQ to review area plans. When ODA is fully staffed and "chapter format" is used as area plan template, DEQ HQ will re-engage in discussing the schedule for biennial reviews. (The flow chart has been removed from this version of the guidance to avoid confusion. Once ODA and DEQ have better

sense of the review process under the new ODA structure, the flowchart will be included in this guidance document.

Biennial Review Schedule

The schedule is updated quarterly and posted in TMDL SharePoint site.
([Link to SharePoint Site](#)) Periodically HQ NPS Specialist

Initial Email

ODA Water Quality Specialists notify DEQ Basin Coordinators, Regional NPS Specialists, and HQ NPS Specialist (Koto Kishida) when biennial review process is initiated. If assigned BC and NPS Specialist are not able to lead biennial reviews due to work priorities, they will communicate to HQ NPS Agriculture liaison to make sure that a lead reviewer will be assigned for all biennial reviews.

Coordinating with DEQ Program staff to provide comments

Source Water Protection staff (Julie Harvey and Jackie Fern), Groundwater Management Program staff (Phil Richerson and Audrey Eldrich) and DEQ WQ Pesticide Management Team member (Julia Crown) will be notified by HQ NPS Specialist periodically of upcoming biennial reviews. BC and NPS Specialist should coordinate with them to provide comments to ODA.

Water Quality Data Analysis

DEQ HQ has been building capacity to analyze WQ data and provide WQ assessment information for each biennial review. The service is not yet available, but it is identified as high priority. HQ intends to do batch analysis of ambient sites within Management Area, and in the future (2015-16 biennial review cycle) expand the services to include analysis of other available WQ data within Management area. Until further notice, BCs and Regional NPS Specialists (or HQ staff assigned as lead for biennial reviews) should work with ODA to evaluate available WQ information within the basin as time allows.

Cover Letter

In order to send a clear and consistent message to Local Advisory Committees, Local Management Agencies (SWCD) and Oregon Department of Agriculture, BCs will draft and attach a cover letter when responding to ODA's biennial review survey using key messages worksheet. Sample cover letter should be available in Implementation Plan SharePoint site.

Regular/Light review

ODA had used light/regular reviews in order to manage staff resources, but is no longer using light reviews.

Reviewing Implementation Information prior to reviewing Area Plans

Currently various TMDL/WQ implementation activities compiled by LAC and ODA are not available at the time of DEQ review. This makes it difficult for DEQ to evaluate plan effectiveness and if implementation efforts are adequate to achieve water quality standards. DEQ staff should request that ODA provide a summary of implementation activities at the time

we are asked to review an area plan. The activities or practices described in the summary should have sufficient location information to place them in a 6th field watershed. Over time, ODA will transition to a process where this information is automatically provided at the time of a review request.

Past DEQ Comments

The quality of the area plans vary within the state. Some plans may include more specific information than what’s been indicated as minimum in this document.

As mentioned previously, DEQ is working with ODA to develop monitoring and evaluation strategies. The past surveys submitted to ODA are now available on ODA website as “DEQ Consultation Report”.

DEQ Biennial Review Schedule

DEQ Biennial Review Schedule 2012											
				BC and HQ determine lead	Receive draft Plan for regular review and ODA sets LAC mtg date	BC and HQ determine lead and inform ODA	Prepare comments on plan	Submit to ODA and discuss as needed	BC and HQ determine LAC attendance	Prepare presentation if attending	LAC
AgWQM Area	LAC date	Assigned?	Notes	wk 34	wk 14	wk 13	wk 13	wk 10	wk 9	wk 8	wk 0
South Willamette	Oct to Dec	Pamela?		2/7/12	6/26/12	7/3/12	7/3/12	7/24/12	7/31/12	8/7/12	10/2/12
Lost River	Oct to Dec	Steve?		2/23/12	7/10/12	7/17/12	7/17/12	8/7/12	8/14/12	8/21/12	10/16/12
Curry	April to June	Pam?		3/20/12	8/7/12	8/14/12	8/14/12	9/4/12	9/11/12	9/18/12	11/13/12
Upper Grande Ronde	Oct to Dec	Don?		3/21/12	8/8/12	8/15/12	8/15/12	9/5/12	9/12/12	9/19/12	11/14/12
Tualatin	Oct to Dec	Avis?		3/21/12	8/8/12	8/15/12	8/15/12	9/5/12	9/12/12	9/19/12	11/14/12
Lower Deschutes	Oct to Dec	Bonnie?		4/4/12	8/22/12	8/29/12	8/29/12	9/19/12	9/26/12	10/3/12	11/28/12
Hood River	Oct to Dec	Bonnie?		4/10/12	8/28/12	9/4/12	9/4/12	9/25/12	10/2/12	10/9/12	12/4/12
Umatilla	April to June 2013	Don?		4/11/12	8/29/12	9/5/12	9/5/12	9/26/12	10/3/12	10/10/12	12/5/12
Mid Coast	Jan to March 2013	David?	Date of LAC Mtg TBD	5/8/12	9/25/12	10/2/12	10/2/12	10/23/12	10/30/12	11/6/12	1/1/13
Owyhee	April to June 2013	John?	Date of LAC Mtg TBD	5/8/12	9/25/12	10/2/12	10/2/12	10/23/12	10/30/12	11/6/12	1/1/13
Upper Deschutes	April to June 2013	Bonnie?	Date of LAC Mtg TBD	5/8/12	9/25/12	10/2/12	10/2/12	10/23/12	10/30/12	11/6/12	1/1/13
Mallheur	April to June 2013	John?	Date of LAC Mtg TBD	5/8/12	9/25/12	10/2/12	10/2/12	10/23/12	10/30/12	11/6/12	1/1/13
Upper John Day	April to June 2013	Don?	Date of LAC Mtg TBD	5/8/12	9/25/12	10/2/12	10/2/12	10/23/12	10/30/12	11/6/12	1/1/13
Powder-Brownlee	April to June 2013	John?	Date of LAC Mtg TBD	5/8/12	9/25/12	10/2/12	10/2/12	10/23/12	10/30/12	11/6/12	1/1/13
Lower Willamette	April to June 2013	Doug	Date of LAC Mtg TBD	8/6/12	12/24/12	12/31/12	12/31/12	1/21/13	1/28/13	2/4/13	4/1/13
Klamath	April to June 2013	Steve?	Date of LAC Mtg TBD	8/6/12	12/24/12	12/31/12	12/31/12	1/21/13	1/28/13	2/4/13	4/1/13

Place holder for biennial review flow chart

(Due to changes with ODA’s programs and process, the flow will be revised in Spring 2015)

Guidance on survey questions

General guidance for survey questions is provided in order to provide consistent message to ODA and LAC during biennial review. Texts in boxes are required responses to the survey questions. A separate document with examples and recommended language is available as Appendix 1 in Implementation Plan SharePoint site.

I. Area Plan Content

A. Issue identification

1. ***Does the Area Plan include all water quality limited water bodies, including 303(d) listed and with approved TMDLs?***

For basins/watersheds with approved TMDLs, it is not necessary for the plans to include 303(d) listings if they are already addressed through load allocations, as long as the plan addresses the load allocations. Look for guidance under Question #2.

For basins/watersheds where there are no approved TMDLs, look for known water quality issues within the plan area and provide information if missing. Integrated Report and/or Watershed Approach Report with Action Plans where applicable should be reviewed to identify documented and potential water quality issues.

Clarify what programs these issues fall under, e.g. 303(d), source water, etc. Elaborate on these under corresponding survey questions. Check against the most recent 303(d) and TMDLs. If some segments are missing or incorrect, provide correct information.

- Yes
- No
- NA

If not, explain what information is missing.

2. ***Does the Area Plan adequately reflect current TMDL status?***

The plan should identify any load allocations in the area, which parameter they address, and the spatial and temporal applicability of the allocation. For impairments or concerns where

there is no TMDL, include a table and descriptive paragraph of the impairment, as well as some suggestions on Agricultural activities that may improve these conditions.

- Yes
- No
- NA

If not, explain what information is missing.

3. Does the Area Plan sufficiently present the TMDL load allocation that it is intended to address?

The geographic as well as temporal scale of TMDL load allocations in the area plan should be consistent with what's in the TMDL. For example, "The bacteria load reduction required for agricultural land use is 86% from October through May, and 45% in June through September. This load allocation applies downstream of river mile 35 on the mainstem Pudding River and to all tributary watersheds." If Ag is assigned a separate allocation in the TMDLs, that should be reflected in the area plan. In essence the plan's presentation of the TMDL should be accurate – sometimes summaries can be misleading or incorrect.

Check that the plan includes descriptions of land conditions and range of actions expected to address WQ issues, including TMDL LAs. If water quality goals are not translated into range of land conditions and actions, provide applicable examples and note the utility of those descriptions for landowners.

- Yes
- No
- NA

If not, explain what information is missing.

Example available in Appendix 1

4. Does the Area Plan adequately include items from applicable Groundwater Management Area Action Plans?

If GWMA action plans are applicable, check to make sure that all Ag related action items are included in the area plan. Contact Phil Richerson or Audrey Eldridge for questions or information. If there are any other groundwater concerns, they should be mentioned.

- Yes
- No
- NA

If not, explain what information is missing.

5. Does the Area Plan present the requirements of Coastal Zone Management Act applicable to agriculture?

If the Management Area is within CZMA area (North Coast, Mid Coast, South Coast, Umpqua and Rogue Basins), check to make sure that the area plans address each categories of Ag sources included in the CZMA guidance document for agriculture.

- (1) Erosion from cropland;
- (2) Confined animal facilities;
- (3) The application of nutrients to cropland;
- (4) The application of pesticides to cropland;
- (5) Grazing management; and
- (6) Irrigation of cropland.

As a reference, links to the CZMA guidance documents are listed below.

<http://water.epa.gov/polwaste/nps/czara/index.cfm>
http://water.epa.gov/polwaste/nps/czara/upload/czara_chapter2_agriculture.pdf

Additional management measures are hydromodification, wetlands, and riparian areas.

http://water.epa.gov/polwaste/nps/czara/upload/czara_chapter6_hydromod.pdf
http://water.epa.gov/polwaste/nps/czara/upload/czara_chapter7_wetlands.pdf

- Yes
- No
- NA

If not, explain what information is missing.

Example available in Appendix 1

6. Does the Area Plan include sufficient items from the State of Oregon; Pesticide Management Plan for Water Quality Protection?

<http://www.oregon.gov/ODA/PEST/docs/pdf/wqpmtpmp.pdf>

For basins with PSPs and toxics monitoring information, check to see if summary of PSP information is included. It might be appropriate to develop and improve milestones with timelines in the plan. Contact Julia Crown or Kevin Masterson for PSP related information, and Lori Pillsbury for Toxics information.

http://www.oregon.gov/ODA/PEST/Pages/water_quality.aspx

- Yes
- No
- NA

If not, explain what information is missing.

7. Does the Area Plan sufficiently address agricultural pollution threats within public drinking water source areas?

Drinking water protection program will provide source water information for biennial reviews.

- Yes
- No
- NA

If not, coordinate with Julie Harvey or Jacqueline Fern to explain what information is missing.

Additional information and example available in Appendix 1

B. Goals and Objectives:

1. *Do the goals and objectives of the Area Plan clearly state that the purpose of the Area Plan is to prevent and control water pollution and to meet water quality standards?*

Check if one of the goals is to meet WQS. (and if applicable TMDL LA, requirements for CZARA, and goals of GWMA)

The objectives should be written with sufficient detail so that, when they are met, the goal of meeting WQS is met.

- Yes in Focus Area or Strategic Implementation Area
- No in FA and SIA

- Yes in Management Area outside of FA and SIA
- No in Management Area outside of FA and SIA

If not, explain what information is missing.

Additional information and examples available in Appendix 1

2. *Does the Area Plan include clear and measurable objectives that are designed to meet water quality standards and TMDL load allocations?*

At a minimum, the following objectives with timelines should be included in order to make sure that progress will be made to achieve water quality standards and other water quality goals. The timeline could be decades depending on the severity and extent of water quality issues within the management area.

- Yes in Focus Area or Strategic Implementation Area
- No in FA and SIA

- Yes in Management Area outside of FA and SIA
- No in Management Area outside of FA and SIA

If not, explain what information is missing.

Recommended language: DEQ recommends minimum of the following objectives with timelines in order to make sure that ODA and LAC are able to track progress toward

meeting water quality standards and other water quality goals. DEQ acknowledges the challenges of setting timelines for objectives. DEQ supports adaptive management, and expects milestones and timelines to be reviewed and adjusted over time.

1. 100% compliance with area rules in plan area by a specified time, and maintaining the 100% compliance.
2. Measurement of rates of implementation of the area plan and rules (plans should include measurable milestones).
3. Adequate level of implementation of area plans (beyond area rules) in order to meet water quality standards and other goals.

Additional information and examples available in Appendix 1

C. Strategies to Meet Water Quality Goals and Track Progress

1. ***Are geographic and/or water quality issue priorities listed in the Area Plan consistent with TMDL, GWMA and Watershed Approach Report and Action Plan priorities?***

Populate the table.						
	FA and SIA			Management Area Wide		
Pollutant	Yes	No	NA	Yes	No	NA
Temperature						
Bacteria						
Sediment						
Nutrients						
Other						

Some of the plans may not have priorities listed. If information is available in TMDL and GWMA, point out geographic and WQ issue priorities.

If WQ priorities are significantly different between Ag and DEQ, point those differences out. If the differences pose issues, explain.

If priorities or management measures are available in TMDL and GWMA, point out geographic and WQ issue priorities.

If WQ priorities are significantly different between Ag and DEQ, point those differences out. If the differences pose issues, explain.

2. Are geographic scales and implementation actions (Strategies and Management Measures – DEQ added) identified in the Area Plan appropriate to track implementation, progress, and effectiveness?

Some plans may not have scales and actions specified in the area plans. (If riparian restoration is called out as a strategy for addressing temperature, for example, what is the plan for implementation? What part of the plan area, and what management measures?) Without having those details in the plan, it is difficult to direct funds, or measure and track implementation. If the area plan does not specify scale/type of management measures, point that out and explain why it's important.

Populate the table – Management measures and Strategies						
	FA and SIA			Management Area Wide		
Pollutant	Yes	No	NA	Yes	No	NA
Temperature						
Bacteria						
Sediment						
Nutrients						
Other						
Gaps*						

Populate the table – Scale of Management measures and strategies						
	FA and SIA			Management Area Wide		
Pollutant	Yes	No	NA	Yes	No	NA
Temperature						
Bacteria						
Sediment						
Nutrients						
Other						

If the strategies and management measures are missing or at impractical scale, recommend alternatives or additional information.
 *Even though this question does not explicitly ask, indicate whether there are any gaps in the strategies to adequately address pollution/impairment and explain if the answer is "no."

3. If applicable, is the Watershed Approach Action Plan addressed?

If Basin Plans have been written for the applicable Plan Area, findings, priorities, and actions in the Basin Plans applicable to agriculture should be referenced. If the information is lacking in Area Plan, point out in the survey and suggest what information could be included in the Area Plan. If BCs have not met with WQ specialists during/post development of Basin Plans, offer to meet with ODA to go over the information in the Basin Plans and associated action plans.

- Yes
- No
- NA

If not, explain what information is missing.

4. Does the Area Plan provide sound evidence or reasons why implementation actions could lead to pollution reduction?

Comment on the following three questions.

- 1) Are all management measures and strategies in the plan consistent with TMDL and other WQ goals? If not, explain why those practices do not contribute toward meeting those WQ goals.
- 2) If management measures or BMPs are listed in the plan, do they provide specific information to evaluate their effects on landscape?
- 3) Are there explanations for why those management measures are recommended? (references to TMDLs, recent studies, or NRCS tech guide)

- Yes
- No
- NA

If not, explain what information is missing.

Recommended Language:

- 1) Some of the management measures and strategies in the plan are not consistent with TMDL and other WQ goals. The following management measures and strategies do not contribute toward

- meeting WQ goals identified in the TMDLs and other WQ goals.
- 2) The area plan does not provide specific information to track and evaluate implementation activities in order to determine the success of the Plan to reduce pollution.
- 3) Load reduction estimates of management measures would allow ODA to track plan implementation and ensure progress is being made to meet TMDL LAs. It is importance to be able to use the information to evaluate potential effects of anticipated landscape conditions for meeting TMDL LAs.

5. Does the Area Plan include timelines, schedules, and measurable milestones that are consistent with the TMDL WQMP?

Keep in mind that the MOA includes a statement below.

In collaboration with DEQ, ODA will ensure milestones and timelines included in each management area plan achieve the goals of the area plan. This work could occur during, but is not limited to, the biennial review process.

ODA has been incorporating management measures and strategies with timelines and milestones within focus areas and strategic implementation areas. These changes were difficult for ODA to achieve, and DEQ needs to recognize their achievement.

DEQ also needs to acknowledge that management measures and strategies need to be further developed for areas outside of FAs and SIAs.

Populate the table – Timelines and Milestones						
	FA and SIA			Management Area Wide		
	Yes	No	NA	Yes	No	NA
Timeline for implementation ID'd						
Timeline for completion ID'd						
Milestones ID'd						

Recommended Language for FA (if strategies/management measures are listed with timelines and milestones): DEQ supports ODA's effort to identify priority watersheds (FA) and Strategic Implementation Areas to focus implementation in those areas as well as test out proactive compliance program. Management measures and strategies and associated timelines and milestones in FA and SIA should support ODA to figure out a way to determine an effective and efficient way to evaluate land

conditions and track progress.

DEQ hopes to support ODA in developing a strategy to assess the entire management area.

Recommended Language for Management Area: DEQ believes that area plans should have the following milestones, and recommend ODA to include them in the area plan.

- Define/explain how to determine rule compliance by describing prohibited conditions in detail.
- Obtain status percent compliance with rule within Plan area by a specific date.
- Interim milestones and timeline to achieve 100% rule compliance for each area rule.
- Develop monitoring and evaluation strategy that will allow ODA to assess plan and rule effectiveness.
- Interim Milestones and timeline for implementing and completing the strategies in the Plan

6. Is monitoring adequate to determine whether progress is being made to achieve the goals of the plan?

Populate the table – Monitoring						
	FA and SIA			Management Area Wide		
	Yes	No	NA	Yes	No	NA
Monitoring implementation of strategies						
Monitoring effectiveness of strategies						
Adequate content in biennial report (at the time of review)						
Adaptive Management described						
Consideration of ongoing monitoring done by local partners						

If there are “no” in the table, explain that additional monitoring needs should be identified and have associated milestones to develop and implement strategy to meet those needs.

Point out the importance of an adequate monitoring plan for evaluating progress.

Recommended Language: It is important for DEQ to obtain geographically organized implementation data ahead of biennial reviews in order to comment on this question.

DEQ recommends ODA and LAC to include strategies and milestones to ensure monitoring is adequate to determine whether progress is made to achieve the goals and objectives of the plan.

DEQ recommends ODA and LAC to consider the questions specified in the MOA at a minimum.

- ODA will determine the percentage of lands achieving compliance with the area rules.
- ODA will determine whether the target percentages of lands meeting desired land conditions, as outlined in the goals and objectives in the area plan, are being met.

The agencies will review and evaluate existing information with the objective of determining:

- Whether additional data are needed to conduct an adequate evaluation.
- Whether goals and objectives need to be revised to facilitate better measuring of progress.
- Whether existing strategies have been effective in achieving the goals and objectives of the area plan.
- Whether the rate of progress is adequate to achieve the goals of the area plan. Achievement of area plan goals will occur consistent with legislative direction to achieve water quality standards and within the time frames established under TMDLs.
- Whether existing prohibited conditions, and compliance activities to implement those conditions, are sufficient to implement the area plan.
- Whether additional prohibited conditions or other mandatory control measures are needed. This evaluation will occur in accordance with OAR 603-090-0000 through 603-090-0120.

II. Implementation/evaluation

A. Are voluntary efforts sufficient to implement the Area Plan or are additional incentives needed to increase the rate of participation?

ODA is working to provide detailed information for FA and SIA. Once ODA begins to collect and share information for FA and SIA, DEQ would be able to evaluate and respond to this question.

- Yes
- No
- Not sure

Recommended Language: This question cannot be easily answered for most of the management plan area due to lack of specificity in the area plan. Having implementation data during the review of the plan would be helpful. DEQ recommends ODA to provide implementation data with the survey questions to DEQ.

Once timelines are set to achieve 100% rule compliance, and methodology for obtaining that information becomes clear, ODA and LAC can determine if area plans are being implemented at a reasonable rate. DEQ encourages ODA and LMAs to identify and track data needed.

B. Are milestones and timelines established for Area Plans achieving the goal of the Program?

ODA is working to provide detailed information for FA and SIA. Once ODA begins to collect and share information for FA and SIA, DEQ would be able to evaluate and respond to this question.

- Yes
- No
- Not sure

Recommended Language: See answer above.

C. Is reasonable progress being made towards accomplishing milestones and timelines in the Area Plan?

ODA is working to provide detailed information for FA and SIA. Once ODA begins to collect and share information for FA and SIA, DEQ would be able to evaluate and respond to this question.

- Yes
- No
- Not sure

Recommended Language: See answer above.

III. Area Rules

A. Are the prohibited conditions likely to be effective in making reasonable progress towards meeting state water quality goals?

DEQ HQ has been engaged in discussions with ODA, and progress is being made. In order to provide consistent feedback on this issue to ODA and LAC, comments should be made through biennial reviews in addition to HQ's work with ODA. Point out the benefit of providing the information in the plan, to allow land owners to self-evaluate if they are meeting area rules. All management area rule includes ORS 468b and riparian rule, but some management areas do not have erosion and manure management rules. If additional area rules would be beneficial, to address water quality issues in the management area, recommend ODA and LAC to consider rulemaking.

- Yes
- No
- Not sure

Recommended language: It is difficult to determine if the prohibited conditions are effective because it is not clear to DEQ how rule compliance at a site scale is determined. DEQ recommends ODA and LAC to provide sufficient detail in the rules document in order to clarify how one would determine rule compliance for each area rule.

DEQ understands the challenges associated with rulemaking, but recommends ODA and LAC to consider adding rules for erosion and/or manure management for the added benefits of clarifying the intended outcome of area rules.

In order to evaluate effectiveness of the rules, DEQ also recommends ODA and LAC to develop and implement effectiveness monitoring.

Provide further explanations.

Example available in Appendix 1

B. Are additional prohibited conditions or other mandatory control measures needed?

This question may not be easily answered for most of the management plan area due to lack of specificity in area rules and available information, as mentioned above. Encourage ODA and LMAs to describe prohibited conditions more in detail. (HQ is also encouraging ODA to do so)

Yes

No

Not sure

Recommended language: As DEQ recommends that the LAC & ODA consider adding descriptions of prohibited conditions. LAC and ODA may consider including a list of unacceptable conditions as a means of encouraging improved practices and implementing established BMPs.

For example, management practices that could be included are those that address: (provide area specific information)

[Example available in Appendix 1](#)